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USEUCOM

DIA WASHDC

C O N F I D E N T I A L NICOSIA 1547

E.O. 11652: GDS

TAGS: TU CY PFOR PINT

SUBJ: TURKISH CYPRIOT DRAFT CONSTITUTION

REF: NICOSIA 1526

1. EMBASSY HAS OBTAINED COMPLETE COPY OF DRAFT CONSTITUTION.
IT ESTABLISHES PRESIDENTIAL/PRIME MINISTER SYSTEM OF GOVERNMENT.
OUR INITIAL ANALYSIS FOLLOWS.

2. PRESIDENT WILL BE ELECTED FOR FIVE-YEAR TERM; MAY ONLY SERVE
TWICE. HIS POWERS ARE MORE LIMITED THAN IN ORIGINAL DOCUMENT
DRAFTED ON MAINLAND. WHILE HE WILL APPOINT PRIME MINISTER AND
APPROVE COMPOSITION OF CABINET, IT WOULD APPEAR POSSIBLE FOR PM
TO FUNCTION INDEPENDENTLY. FOR EXAMPLE, PRESIDENTIAL VETO COULD
BE OVERTURNED BY SIMPLE MAJORITY OF LEGISLATURE.

3. CABINET WILL CONSIST OF MAXIMUM OF TEN MINISTERS, WHO WILL
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NOT NECESSARILY HAVE TO BE DRAWN FROM PARLIAMENT. PRECISE RESPON-

SIBILITIES OF MINISTRIES NOT DEFINED IN CONSITITUTION. MINISTERS WILL BE RESPONSIBLE TO BOTH PRESIDENT AND PARLIAMENT.

4. PARLIAMENT WILL BE COMPOSED OF FORTY MEMBERS ELECTED FOR FIVE-YEAR TERMS FROM (UNSPECIFIED) GEOGRAPHIC DISTRICTS. CONSTITUTION DOES NOT INDICATE WHETHER THESE WILL BE SINGLE OR MULTI-MEMBER DISTRICTS. PARLIAMENT MAY DISSOLVE ITSELF BY SIMPLE MAJORITY VOTE OR CAN BE DISSOLVED BY PRESIDENT IF THERE ARE THREE NO-CONFIDENCE VOTES WITHIN 18-MONTH PERIOD. (COMMENT: PROVISION APPEARS TO BE BASED ON MAINLAND EXAMPLE -- WHICH HAS CAUSED GOT SO MUCH GRIEF IN RECENT MONTHS. END COMMENT.)

5. POLITICAL PARTIES ARE LEGALIZED WITH SOLE REQUIREMENT THAT THEY SUPPORT "DEMOCRATIC, ATATURKIST, SECULAR STATE." THIS NOT FURTHER DEFINED. PRESIDENT MAY BE MEMBER OF PARTY BUT NOT ITS HEAD.

6. THE TURKISH FEDERATED STATE OF CYPRUS (TFSC) IS GIVEN SOLE OWNERSHIP OF UNDERGROUND WATER, MINERALS, AND ANTIQUITIES LOCATED WITHIN ITS BOUNDARIES. IN ADDITION, TFSC GRANTED RIGHT "NATIONALIZE" PROPERTY WITH COMPENSATION TO BE PAID OVER TEN-YEAR PERIOD.

7. CONSITITUTION TWICE CITES TFSC'S RIGHT TO RECEIVE FINANCIAL ASSISTANCE FROM FOREIGN STATES AND INTERNATIONAL ORGANIZATIONS. ASSERTS THIS RIGHT CANNOT BE REMOVED UNDER "ANY CONDITIONS WHATSOEVER".

8. TFSC EMPOWERED ESTABLISH RADIO, TELEVISION, NEWS AGENCY, WHICH ARE TO BE INDEPENDENT OF INTRA-COMMUNAL PARTISAN POLITICS.

9. CONSTITUTION PROVIDES FOR MARTIAL LAW AND MILITARY COURTS BUT, CURIOUSLY, LAYS NO BASIS FOR STANDING ARMY OR POLICE FORCE. CIVIL JUDGES WILL BE INDEPENDENT OF OTHER BRANCHES AND CANNOT BE REMOVED EXCEPT FOR COMMISSION OF SPECIFIED CRIMES.

10. IN ADDITION TO PROVISIONAL ARTICLE TWO CITED REFTL, PROVIDING FOR CONSTITUTIONAL REVISION ON ENTRY INTO FORCE OF CYPRUS FEDERAL CONSTITUTION, DOCUMENT'S SINGLE OTHER REFERENCE TO POSSIBLE INTERCOMMUNAL SETTLEMENT IS STATEMENT THAT "WITH EXCEPTION OF POWERS RECOGNIZED TO THE CYPRUS FEDERAL REPUBLIC
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ON SPECIFIC ISSUES, THE TURKISH FEDERATED STATE OF CYPRUS EXERCISES ALL POWER AND ESTABLISHES THE NECESSARY INSTITUTIONS". CONSTITUTION ITSELF DOES NOT SPECIFICALLY RECOGNIZE ANY POWERS TO "CYPRUS FEDERAL REPUBLIC".

11. WE ARE INFORMED THAT AUTHORIZED ENGLISH TRANSLATION WILL BE AVAILABLE IN APPROXIMATELY TEN DAYS.

12. COMMENT: CONSTITUTION IS LESS AUTHORITARIAN THAN DRAFT PRESENTED TURKISH CYPRIOTS BY GOT. IT GRANTS CONSIDERABLY MORE POWER TO THE LEGISLATURE AND STRONG EFFORT HAS BEEN MADE TO ENSURE AN INDEPENDENT JUDICIARY. NEVERTHELESS, TURKEY WILL CONTINUE PAY MOST OF THE BILLS AND, HENCE, CALL ALL IMPORTANT TUNES. MARTIAL LAW REMAINS IN FORCE AND MANY OF THE LIBERAL PROVISIONS OF THE CONSTITUTION WILL NOT GO INTO EFFECT FOR THE FORESEEABLE FUTURE.

13. CONSTITUTION'S MANY REFERENCES TO STATE'S SECULAR NATURE SEEM AIMED DIRECTLY AT MAKARIOS DESPITE FACT THEY REFER ONLY TO TFSC. "TERRITORIAL BOUNDARIES" ARE NOT DEFINED IN CONSTITUTION, POSSIBLY INDICATING THAT SIZE OF TFSC REMAINS NEGOTIABLE.

14. ONE OF MOST INTERESTING ASPECTS OF CONSTITUTION IS THAT IT HIGHLIGHTS HITHERTO MUTED CRITICISMS OF TURKEY'S HEAVY HAND IN LOCAL AFFAIRS. EXTENSIVE AND DETAILED GUARANTEES OF PRESS FREEDOM, RIGHT OF ASSEMBLY, FREEDOM OF SPEECH, ETC. RESULT FROM EXCESSIVE TURKISH EMBASSY/MILITARY CENSORSHIP DURING LAST ELEVEN YEARS. LIKEWISE, REQUIREMENTS THAT BUDGET BE SUBMITTED TO PARLIAMENT AND THAT MARTIAL LAW BE APPROVED BY LEGISLATORS REFLECT BROAD LOCAL DISCONTENT WITH AUTHORITARIAN NATURE OF PREVIOUS TURK CYPRIOT REGIMES.

15. TO THIS EXTENT, RESULTS OF CONSTITUENT ASSEMBLY ARE POLITICAL DEFEAT FOR DENKTASH. HE WAS UNABLE CONTROL COURSE OF DEBATE AND RECEIVED STRONG CRITICISM FROM ASSEMBLY'S YOUNGER AND MORE RADICAL MEMBERS. DEBATE RECEIVED EXTENSIVE PRESS COVERAGE.

16. NEVERTHELESS, WITH TURKEY'S SUPPORT AND HIS OWN FORCE OF CHARACTER, DENKTASH AS "PRESIDENT" SHOULD BE ABLE TO CONTINUE DOMINATE HIS COMMUNITY. WE WOULD NOT BE SURPRISED, HOWEVER, TO SEE GOT PLAY OFF NEW "PRIME MINISTER" AGAINST DENKTASH (AS THEY

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PLAYED DENKTASH AGAINST KUCHUK) TO INCREASE TURKEY'S LEVERAGE IN LOCAL AFFAIRS.

17. FINALLY, CONSTITUTIONAL PROVISION TO COMPENSATE TURKISH CYPRIOTS FOR MOVABLE AND IMMOVABLE PROPERTY LEFT OUTSIDE TFSC'S BOUNDARIES IS PARTICULARLY TROUBLESOME FROM INTER-COMMUNAL POINT OF VIEW. WE ARE AWARE THAT COMPENSATION FOR MOVABLE PROPERTY ALREADY UNDERWAY, WITH TURKISH AUTHORITIES DISTRIBUTING GREEK TRACTORS, COMBINES, ETC. TO TURKISH FARMERS. THUS FAR TFSC HAS NOT GRANTED TITLE TO IMMOVABLE PROPERTY TO MIGRANTS.

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